

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 25A-0155CP

IN THE MATTER OF THE APPLICATION OF SHUTTLE RED ROCKS LLC FOR A
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AS A
COMMON CARRIER BY MOTOR VEHICLE FOR HIRE.

**RECOMMENDED DECISION
DENYING APPLICATION**

Issued Date: October 20, 2025

TABLE OF CONTENTS

I. STATEMENT AND SUMMARY	1
II. PROCEDURAL HISTORY	2
III. FINDINGS AND DISCUSSION	3
A. Evidence and Factual Findings.....	3
B. Relevant Law.....	14
1. Commission Jurisdiction and Burden of Proof	14
2. Legal Standards to Obtain a CPCN.....	15
C. Discussion.....	18
1. Fitness.....	18
2. Public Need and Substantial Inadequacy	19
IV. CONCLUSION.....	25
V. ORDER.....	25
A. The Commission Orders That:	25

I. STATEMENT AND SUMMARY

1. This Decision denies the above-captioned Application and closes this Proceeding.

II. PROCEDURAL HISTORY¹

2. On April 3, 2025, Shuttle Red Rocks LLC (“Applicant”) initiated this Proceeding by filing the above-captioned Application with the Public Utilities Commission (“Commission”).

3. On April 9, 2025, Applicant amended the Application (“Amended Application”) to seek a Certificate of Public Convenience and Necessity (“CPCN”) to operate as a common carrier by motor vehicle for hire for the transportation of passengers in call-and-demand shuttle service between the Red Rocks Park and Amphitheatre (“Red Rocks”), on the one hand, and on the other hand, the following locations in Denver, Colorado: (a) 29th Street and Larimer Street; (b) 14th Street and California Street; (c) 19th Street and Wynkoop Street; and (d) W. 30th Avenue and Tejon Street.²

4. On April 14, 2025, the Commission provided public notice of the Amended Application, per § 40-6-108(2), C.R.S.³

5. On May 21, 2025, the Commission deemed the Amended Application complete and referred this matter by minute entry to an administrative law judge (“ALJ”) for disposition.

6. In addition to Applicant, Mountain Star Transportation LLC, doing business as Red Rocks Shuttle (“Mountain Star”)⁴ and Epic Charter LLC (“Epic”) (collectively, “Intervenors”) are parties to this Proceeding and are represented by their non-attorney owner, Mr. Roman Lysenko.⁵ On June 9, 2025, the ALJ scheduled a fully remote evidentiary hearing for September 9, and 11,

¹ Only the procedural history necessary to understand this Decision is included.

² Applicant’s Amendment filed April 9, 2025.

³ Notice at 2.

⁴ Given the similarity between Mountain Star’s “doing business as” name, (Red Rocks Shuttle), and Applicant’s name, this Decision does not use Mountain Star’s “doing business as” name.

⁵ Decision No. R25-0444-I at 17 (issued June 9, 2025).

2025, and established deadlines and procedures for the hearing, including a September 30, 2025 deadline to file Statements of Position (“SOPs”).⁶

7. On July 17, 2025, the ALJ modified the hearing date to September 5, 2025, without modifying the deadlines and procedures established by prior order.⁷

8. The ALJ held the hearing as noticed on September 5, 2025. All parties appeared. During the hearing, the following hearing exhibits were admitted into evidence: 100 to 113; 200; 201; 203; 207; and 208.⁸ Mr. Viktor Dokulevski testified on Applicant’s behalf and Mr. Roman Lysenko testified on Interveners’ behalf during the hearing. After the parties rested, each made a closing argument in lieu of filing a SOP, and the ALJ vacated the September 30, 2025 deadline to file SOPs.

III. FINDINGS AND DISCUSSION

A. Evidence and Factual Findings

9. Mr. Dokulevski manages Applicant and Limo to Vail, LLP (“Limo to Vail”).⁹ He explained that Limo to Vail is a brokerage company that operates on the same principle as Expedia.com, by booking transportation and contracting with regional transportation providers to

⁶ *Id.* at 16-20.

⁷ Decision No. R25-0523-I at 4-5 (issued July 17, 2025).

⁸ These exhibits were admitted and electronically received into evidence during the hearing through the parties’ box.com folders. Commission administrative staff added these exhibits to the administrative record on September 5, 2025. At the beginning of the hearing, Mr. Lysenko argued that Applicant intentionally failed to file and disclose the majority of its exhibits on the initial deadline to do so in order to prevent Interveners from being able to review their evidence and amend their exhibit lists in response thereto (as contemplated by Decision No. R25-0444-I). Without making findings as to Applicant’s intent, the ALJ agreed that Applicant’s initial disclosures were inadequate and effectively resulted in Interveners being unable to identify all exhibits that they wish to present. As result, the ALJ allowed Interveners flexibility to offer exhibits not previously filed or disclosed (Hearing Exhibits 203, 207 and 208).

⁹ He testified that Limo to Vail owns or encompasses Applicant and that he manages and co-owns both companies. Mr. Dokulevski did not identify the correct spelling or name of Limo to Vail, so it is not clear whether the correct legal name is Limo to Vail, LLP.

provide that transportation. He was uncertain about whether Limo to Vail had ever contacted Interveners to provide transportation services.

10. Mr. Dokulevski explained that Applicant seeks to transport passengers to Red Rocks from 29th and Larimer Street in the Rhino area of Denver; the Colorado Convention Center (“Convention Center”) in Denver; McGregor Square Plaza at 19th and Wynkoop in Denver; and 32nd and Tejon Street in the Lo-Hi area of Denver. Applicant selected these locations based on the population density in those areas, and data that Mr. Dokulevski collected as an Uber driver.

11. Applicant has a business plan, but provided no evidence about that plan. Mr. Dokulevski explained that Applicant does not have any vehicles to provide the proposed service at this time and did not elaborate on any plans that Applicant may have to obtain vehicles (including Applicant’s financial ability to obtain vehicles), to obtain or any other equipment or facilities necessary to provide the proposed service.

12. Mr. Dokulevski testified that he was unable to book a daytime shuttle to Red Rocks using Interveners’ service, asserting that they do not offer daytime shuttles to Red Rocks. In support, Mr. Dokulevski relied on images from Mountain Star’s website.¹⁰ Hearing Exhibit 100 shows several images from Mountain Star’s website listing pick-up locations and times, return times, meeting points, and its \$65 rate for roundtrip shuttle transportation from different locations in Denver to Red Rocks.¹¹ Mr. Dokulevski asserted that Hearing Exhibit 100 alone establishes that Mountain Star’s service is inadequate because the exhibit does not list daytime shuttles to Red Rocks.

¹⁰ The website shown in Hearing Exhibit 100 is for Red Rocks Shuttle, Mountain Star’s “doing business as” name.

¹¹ Hearing Exhibit 100 at 1-2.

13. Hearing Exhibit 100 does not list specific dates and times for shuttles to Red Rocks but instead offers transportation pick-up and return times based on the when the Red Rocks event (*i.e.*, concert) starts and ends.¹² Specifically, for each pick-up location, the website shows the departure time as 30 to 45 minutes before “the event DOOR time” with returns scheduled for 30 minutes “after the music ends.”¹³ Hearing Exhibit 100 reveals ample availability for shuttles to Red Rocks in April 2025.¹⁴

14. Mr. Dokulevski testified that there are hundreds of thousands, and maybe even over a million visitors to the Red Rocks area every year for daytime events and activities like recreation, hiking, or yoga, but that Interveners do not adequately serve such visitors based on their failure to provide daytime shuttle service. He also testified that he attempted to book a daytime shuttle to Red Rocks on Epic’s website and there was not an option to book transportation, but that he could request a quote for transportation. Mr. Dokulevski argued that because Interveners do not have a storefront, they must allow the public to make reservations through their websites to make service accessible.

15. Mr. Dokulevski provided screenshots from a booking website that Mountain Star uses showing that it had no availability for transportation to Red Rocks from different locations in Denver on June 23, 30, and July 7, 2025 and limited availability on June 20 and 21, 2025.¹⁵ Mr. Dokulevski asserted that this evidence indicates that Interveners are unable to meet the public’s

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* at 3.

¹⁵ See Hearing Exhibits 104, 106, 107, and 110 (June 30 and July 7, 2025 unavailable from Improper City, Avanti, Union Station, and the Convention Center); Hearing Exhibits 105 and 108 (June 23 and 30, 2025 unavailable from Avanti and Union Station); Hearing Exhibit 109 (June 20, 21, 23, and 30, 2025 unavailable from the Convention Center); and Hearing Exhibit 111 (June 20, 23, and 30, 2025 unavailable from Improper City). Hearing Exhibits 105 and 106 both reflect availability from the Avanti location but Hearing Exhibit 105 shows availability from June 29 to the end of July 2025, while Hearing Exhibit 106 only shows June 2025 availability.

needs during peak demand, despite Interveners' assertion that they regularly operate well below capacity and can handle more traffic. He argued this proves that Interveners' service is inadequate, highlighting that Red Rocks' peak season is short.

16. Mr. Dokulevski testified that while there may not have been concerts at Red Rocks on June 23, 30 and July 7, 2025, Red Rocks did host Film on the Rocks on those dates but Interveners failed to provide transportation for those events.

17. Mr. Dokulevski explained that Applicant sought temporary authority in Proceeding No. 25A-0154CP-TA to provide the services at issue here, but that the Commission denied the request because Interveners objected. Hearing Exhibit 101 is Interveners' Intervention in that case. Applicant pointed to statements in this Intervention that Interveners are ready, willing and able to serve additional passengers and that they have capacity to transport 371 passengers at the same time, but on a regular day, only transport 30 to 40 passengers.¹⁶ Mr. Dokulevski argued that these statements establish that Interveners' service is inadequate because there are over 1.5 million people visiting Red Rocks yearly and Interveners' inability to fill capacity speaks to their failure to do public outreach, thereby failing to meet public need. He believes that Interveners must make the public aware of their services, as an aspect of their obligation to meet the public's needs. He explained that if the public is unaware of Interveners' services and options, they cannot safely, reliably, and economically get transportation to Red Rocks from Interveners, which he submits are core values of the regulated monopoly doctrine.

18. Mr. Lysenko clarified that the total 371 passenger capacity figure covers both Interveners' capacity for all types of services they provide, and that Interveners have capacity to provide shuttle service for 280 passengers at one time.

¹⁶ Hearing Exhibit 101 at 2.

19. Mr. Dokulevski testified that local officials, journalists, and community leaders have identified a need for more transportation options to Red Rocks. In support, he relied on the Jefferson County (“Jeffco”) Board of Commissioners’ (“Jeffco Commissioners”) hearing minutes from a December 12, 2023 hearing (“Jeffco Minutes”), and two articles (discussed below).¹⁷ Jeffco Minutes indicate that Jeffco Commissioner Kerr reported about meetings she had with other officials about “some potential public transportation” to connect the end of the Regional Transportation District (“RTD”) line to Red Rocks, or potentially to Morrison.¹⁸ Jeffco Commissioner Kerr also reported on a meeting with the Governor’s Office about a potential rail stop somewhere in the Northern Jeffco area, and other discussions about the Governor’s overall passenger rail focus.¹⁹ Mr. Dokulevski explained officials moved forward with potential public transportation options from Denver to Red Rocks, and that a trial run or pilot is scheduled for September 20, 2025 during which there will be a free shuttle all day (and evening) from the end of the W line in Golden to Red Rocks. He believes that this trial run will be used to collect ridership data to use in seeking to make the pilot a permanent offering.

20. Mr. Dokulevski also relied on an article published on April 3, 2024 in the *Denverite*, titled “Why can’t you take public transportation to Red Rocks? Because it doesn’t go there.”²⁰ The article notes that the region’s public transit system does not offer transportation to the region’s “most iconic public venue at concerts that brought in more than 1.4 million people” in 2023.²¹ The article discusses Jeffco Commissioner Kerr’s and other officials’ efforts to provide public transportation to and from Red Rocks.²² Mr. Dokulevski highlighted quotes in the article from

¹⁷ *See generally*, Hearing Exhibit 102.

¹⁸ *Id.* at 4.

¹⁹ *Id.*

²⁰ *See generally*, Hearing Exhibit 112.

²¹ *Id.* at 3.

²² *Id.* at 6-8.

District 9 City Councilmember Darrell Watson that over 90 percent of people going to Red Rocks drive themselves, and that there needs to be an alternative.²³ He also highlighted statements in the article attributed to Red Rocks' owner that the private sector has met the need for transportation for years through expensive rideshares, private shuttles and party buses, but that the owner would like to see more options.²⁴ On cross-examination, Mr. Dokulevski agreed that he does not know what information that the journalist who wrote the article relied upon for the article's conclusions.

21. Mr. Dokulevski also relied on a June 12, 2025 article published by the Bucket List Community Café titled "Why Is It So Hard to Get To Red Rocks?".²⁵ The article notes that with no public transportation options, Red Rocks visitors have to drive or pay for private transportation.²⁶ The article declares that the overall consensus is that Uber and Lyft "own the trail" (*i.e.*, rideshare services must be used to get to Red Rocks), and that an Uber ride to Red Rocks can cost anywhere from \$30 to \$90.²⁷ Mr. Dokulevski acknowledged that the article also explains the preferred option for many tourists is Mountain Star's shuttle service.²⁸ The article notes that Bold Limo also serves Red Rocks, but that Bold Limo and Mountain Star's service are not "cheap" with Bold Limo charging fees nearing \$300 and Mountain Star charging \$65 per person (round trip).²⁹ The article concludes that the average tourist "will, however, get gouged by the high prices it takes to reach the Red Rocks Amphitheater," and that public transit to Red Rocks has been in discussion for years, but there is no sure sign that it will ever be an option.³⁰

²³ *Id.* at 5.

²⁴ *Id.* at 10.

²⁵ *See generally*, Hearing Exhibit 113.

²⁶ *Id.* at 2.

²⁷ *Id.* at 5.

²⁸ *Id.* at 6.

²⁹ *Id.*

³⁰ *Id.* at 7.

22. Mr. Dokulevski submitted that the Jeffco Minutes and two articles discussed above establish that Interveners do not meet the public's shuttle needs to Red Rocks. He added that this evidence establishes that local officials, journalists, and community leaders do not consider the current options sufficient, as they are either too expensive or unavailable when needed. He asserted that the lack of affordable options to get to Red Rocks is a significant concern, and that providing economical service directly relates to principles upon which the regulated monopoly doctrine is founded.

23. As noted, Mr. Dokulevski drives for Uber. Using data from the driver's side of Uber's mobile application, he tracked demand from April 17 to 24, 2025 where Uber experienced a surge in demand for transportation ("demand surge") from Red Rocks, resulting in increased charges for transportation from Red Rocks (known as surge pricing).³¹ He explained that this happens when there are more people looking for transportation from a location than there are drivers available to provide that transportation. Every time he saw this happen during that April timeframe, he took screenshots.³² He noted that prices for transportation from Red Rocks during the day surged to over \$100. He explained that in his experience, \$100 for a daytime Uber trip from Red Rocks is quite common because a lot of hikers and other recreational visitors try to get transportation between 11:00 a.m. and 1:00 p.m., but there are not enough Uber drivers to meet demand. Mr. Dokulevski tracked 32 instances from April 17 to 24, 2025 where Uber experienced a surge in demand for transportation from Red Rocks, resulting in surge pricing.³³ On cross-examination, he agreed that he does not know whether those seeking transportation from Uber

³¹ *See generally*, Hearing Exhibit 103.

³² *Id.* at 1-32.

³³ *See id.*

when demand surged on those dates sought transportation from Interveners, or whether they were willing to use a shuttle service over Uber.

24. Mr. Dokulevski argued that all this evidence establishes that the community does not accept Interveners' service as being reliable or adequate, and that Interveners' service is strategically inadequate. He believes that Interveners are contributing to the solution to the lack of transportation and provide a valuable service, but that there continues to be unmet need, particularly as to daytime transportation to Red Rocks.

25. Mr. Dokulevski argued that Interveners are unclear on their responsibility to serve the public because they appear focused on serving only those who can afford their more expensive service, and do not appear interested in serving those who cannot afford such service (such as Red Rocks' employees and others referenced in the articles discussed above).

26. Mr. Lysenko testified that he has been managing transportation companies since 2011, including luxury limousine, sightseeing, and scheduled transportation services. He explained that Mountain Star and Epic have their own separate and targeted websites. Mountain Star targets concert-related transportation and sightseeing to Red Rocks, which requires round-trip transportation to and from Red Rocks.³⁴ He explained that Epic provides daily one-way shuttle service to Red Rocks during the day through epic-charter.com. He stated that there is almost no demand for morning shuttle transportation to Red Rocks (but there is demand for sightseeing transportation). He noted that locals tend to go earlier in the day and seem to prefer driving themselves to make it easier to take their gear and come and go when they please.

³⁴ He added that redrocksshuttle.com targets the referenced round-trip concert transportation.

27. My Lysenko clarified that on the three dates Applicant asserted Mountain Star had no availability, June 23, 30, and July 7, 2025, there were no concerts at Red Rocks. Because Mountain Star focuses on concert-related transportation, and there were no concerts on those dates, they appeared unavailable on the website. Mr. Lysenko explained that on June 20 and 21, 2025, the Convention Center was so overcrowded with thousands of people that Mountain Star was unable to park its vehicles at its pick-up location there, and as a result, redirected people seeking transportation to other pick-up locations. The booking screenshots that Applicant provided for June 20 and 21, 2025 support this, as they indicate that the Convention Center pick-up location was unavailable and that other pick-up locations such as Union Station and Avanti were available on those dates.³⁵ Mountain Star's internal reservation record for transportation from Union Station to Red Rocks on June 20, 2025 indicates that it had 12 reservations with 18 passengers that day.³⁶ Of those reservations, four were booked on June 19, 2025, and one was booked on June 20, 2025 (the day of the event).³⁷ Its internal reservation record also shows seven reservations with nine passengers on June 20, 2025 from Mountain Star's Avanti location, with four reservations made the morning of June 20, 2025 (the day of the event).³⁸ Mountain Star's internal reservation record for its Union Station location to Red Rocks on June 21, 2025 indicates that it had 71 reservations with 164 passengers that day.³⁹ Of those reservations, 11 were booked on June 20, 2025, and 14 were booked on June 21, 2025 (the day of the event).⁴⁰ Mr. Lysenko asserted that the evidence showing that many reservations were made on the same day as the transportation establishes that

³⁵ See Hearing Exhibits 105, 108, and 109. *See also*, Hearing Exhibit 207.

³⁶ Hearing Exhibit 207.

³⁷ *Id.*

³⁸ *Id.*

³⁹ Hearing Exhibit 208 at 1.

⁴⁰ *Id.* at 2.

Mountain Star met the public's need for transportation to Red Rocks on June 20 and 21, 2025.⁴¹ He noted that even though the Union Station shuttle on June 21, 2025 was scheduled to depart at 5:15 p.m., Mountain Star still accepted reservations at 4:28 p.m. that same day, which is quite close to the shuttle's departure time.⁴² Mr. Lysenko submitted that this evidence establishes that Mountain Star had availability to transport passengers to Red Rocks on June 20 and 21, 2025, (but from a different location than the Convention Center), and that Mountain Star met the public demand for transportation.

28. As to allegations that Interveners' rates are unaffordable, expensive, or too high, Mr. Lysenko explained that he understands that rates must be reasonable, not that they must be the least expensive transportation available, and that the Commission has approved Interveners' rates. Interveners' rates cover costs to maintain vehicles, insurance, and other operational costs. He explained that public transportation is a completely different model that offers transportation at much lower rates, and that Interveners do not and cannot compete with public transportation options because the costs to do business do not allow for this.

29. As to safety concerns, he explained that Interveners use motor coaches, which is the safest way to transport passengers because of their weight, height, three-point over-the-shoulder seatbelts, and forward-facing seats. Interveners selected such vehicles for their safety even though they are extremely expensive. He added that Interveners use certified mechanics and take no shortcuts in caring for their vehicles.

30. Mr. Lysenko asserted that the proposed authority directly conflicts with Interveners' authority.⁴³ As it is, Interveners already compete with legitimate operators (*e.g.*, Uber

⁴¹ See Hearing Exhibits 207 and 208.

⁴² Hearing Exhibit 208 at 2.

⁴³ See Hearing Exhibits 200 and 201.

and Lyft and CPCN holders), and many that are not legitimate and who operate illegally. Mr. Lysenko testified that with all those options, only a small portion of people choose to use shuttle service. He also explained that while many people drive themselves to Red Rocks or use a service like Uber, this does not mean that they will use a shuttle service, as many people do this out of convenience. For example, Mr. Lysenko requested transportation to Red Rocks on the morning of the hearing (September 5, 2025) from Uber and was given an option to be picked up within two minutes for roughly \$30 in a vehicle that could fit four people. This convenience and flexibility may be what draws people to use Uber over a shuttle service, (rather than the lack of available options, as Applicant asserts). For these reasons, Mr. Lysenko argued that Applicant's Uber surge demand evidence does not establish a surge in demand for shuttle service, or that people are choosing Uber because there are no other transportation options available.

31. He also explained that demand appears to be shifting toward private cars, and it has become even harder to continue in business, citing, for example, that sometimes, Interveners must run shuttles with so few people that the income from their transportation does not cover the transportation's costs. Since Interveners have an obligation to serve the public, they provide that transportation even when it does not make financial sense to do so. The volume of unlicensed or illegal transportation providers have made it difficult to continue to operate, as they divert traffic. Combined with the increased volume of private car options like rideshare companies, he believes the shuttle business is in real jeopardy. As a result, Mr. Lysenko submitted that it would not serve the public interest to grant another CPCN to serve the same area.

B. Relevant Law**1. Commission Jurisdiction and Burden of Proof**

32. The Commission has authority to issue certificates to operate as a common carrier under Colo. Const. art. XXV, §§ 40-10.1-103(1) and 203(1), C.R.S., (2025).⁴⁴ Common carriers may only operate with a Commission-issued certificate declaring that the present or future public convenience and necessity requires or will require the common carrier's operation.⁴⁵ Motor carriers providing call-and-demand shuttle service are common carriers.⁴⁶ Based on the foregoing authorities and the Amended Application, the ALJ concludes that the Commission has jurisdiction and authority over this matter.

33. As the proponent of an order, Applicant bears the burden of proof by a preponderance of the evidence.⁴⁷ The preponderance standard requires the fact finder to determine whether the existence of a contested fact is more probable than its non-existence.⁴⁸ A party has met this burden of proof when the evidence, on the whole and however slightly, tips in favor of that party.⁴⁹ Although the preponderance standard applies, the evidence must be substantial. Substantial evidence is such relevant evidence as a reasonable person's mind might accept as adequate to support a conclusion.⁵⁰

⁴⁴ See *Miller Brothers, Inc. v. Pub. Utils. Comm'n*, 525 P. 2d 443, 446 (Colo. 1974).

⁴⁵ § 40-10.1-201(1), C.R.S.

⁴⁶ Rule 6001 (nnn) of the Commission's Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* ("CCR") 723-6.

⁴⁷ §§ 13-25-127(1) and 24-4-205(7), C.R.S.; Rule 1500, 4 CCR 723-1.

⁴⁸ *Swain v. Colorado Dep't of Revenue*, 717 P.2d 507, 508 (Colo. App. 1985).

⁴⁹ *Schocke v. Dep't of Revenue*, 719 P.2d 361, 363 (Colo. App. 1986).

⁵⁰ *City of Boulder v. Pub. Utilis. Comm'n*, 996 P.2d 1270, 1278 (Colo. 2000).

2. Legal Standards to Obtain a CPCN

34. Applicants for a CPCN must establish their financial, managerial, and operational fitness to conduct the proposed operations.⁵¹ In general, operational fitness encompasses a consideration of whether an applicant has the equipment, personnel, and facilities to operate the proposed service. The Commission has identified the following evidentiary factors as relevant to the fitness inquiry: minimum efficiency scale to operate under the proposed authority; credit worthiness and access to capital; credit history and assessment of financial health in the near future; capital structure and current cash balances; managerial competence and experience; fixed physical facilities such as office space and maintenance garages; appropriate licenses and equipment necessary to operate a dispatch system; and vehicles of appropriate type.⁵² Whether an applicant is willing and able to comply with applicable public utilities laws also bears upon the question of fitness.⁵³

35. In addition to fitness, applicants must show that the present or future public convenience and necessity requires or will require the proposed service.⁵⁴ In deciding that question, the Commission applies the regulated monopoly doctrine.⁵⁵ Commission Rules reflect the regulated monopoly doctrine by requiring an applicant to demonstrate the public needs the proposed service; that granting the authority is in the public interest; and that the existing service is inadequate to meet the public's needs.⁵⁶

⁵¹ See Rule 6203(a)(XI), 4 CCR 723-6.

⁵² See *e.g.*, Decision No. C08-0933, at ¶ 7, Consolidated Proceeding Nos. 08A-241CP, 08A-281CP-Extension, 08A-284CP-Extension, and 08A-300CP.

⁵³ See *Thacker Brothers Transp. v. Pub. Utils. Comm'n*, 543 P.2d 719, 721 (Colo. 1975).

⁵⁴ See § 40-10.1-201(1), C.R.S.

⁵⁵ *Ephraim Freightways Inc. v. Pub. Utils. Comm'n*, 380 P.2d 228, 230 (Colo. 1963).

⁵⁶ Rule 6203(a)(XVII), 4 CCR 723-6.

36. The regulated monopoly doctrine is based on the principle that fewer carriers who can make a reasonable return will give the public safe, efficient, and more economical service, and that increasing the number of providers ultimately results in a deterioration of service and higher rates.⁵⁷ With this regulated monopoly protection comes the obligation to indiscriminately accept and carry passengers (for compensation) and to “furnish, provide, and maintain such services, instrumentalities, equipment, and facilities as shall promote the safety, health, comfort, and convenience of its patrons, employees, and the public, and as shall in all respects be adequate, just, and reasonable.”⁵⁸ As such, under the regulated monopoly doctrine, a common carrier serving a particular area is only entitled to protection against competition if its service is adequate to satisfy the public’s needs.⁵⁹ Indeed, the existence of an adequate and satisfactory service by motor carriers serving the area negates a public need and demand for added service by an additional carrier.⁶⁰ As a result, the public need and adequacy elements are closely related.⁶¹

37. The Commission has “wide discretionary powers in determining the demands of ‘public convenience and necessity.’”⁶² Whether an incumbent’s service is substantially inadequate is a question of fact that the Commission must determine.⁶³ The Commission may consider “a broad range of evidence in determining whether an incumbent carrier’s service is substantially inadequate.”⁶⁴ The Colorado Supreme Court has noted that the Commission may consider any relevant evidence in determining whether the public convenience and necessity requires additional

⁵⁷ See e.g., *Denver & R.G. W. R. Co., v. Pub. Utils. Comm’n*, 351 P.2d 278, 280 (Colo. 1960).

⁵⁸ § 40-3-101(2), C.R.S. See § 40-10.1-103(1), C.R.S., (common carriers are public utilities within the meaning of articles 1 to 7 of title 40, Colorado Revised Statutes); Rule 6001(p), 4 CCR 723-6.

⁵⁹ *Ephraim Freightways Inc.*, 380 P.2d at 230.

⁶⁰ *Id.* at 231.

⁶¹ See *id.* at 230-231.

⁶² *Pub. Utils. Comm’n v. Donahue*, 335 P.2d 285, 288 (Colo. 1959).

⁶³ *RAM Broadcasting v. Pub. Utils. Comm’n*, 702 P.2d 746, 751 (Colo. 1985); *Durango Transp. Inc. v. Pub. Utils. Comm’n*, 122 P.3d 244, 248 (Colo. 2005).

⁶⁴ *Durango Transp. Inc.*, 122 P.3d at 250.

service.⁶⁵ The Court has expressly approved, as relevant, consideration of various aspects of incumbents' service and operation, including rates, charges, speed, efficiency, and quality of its facilities, organization, equipment, and personnel.⁶⁶ For example, in *Durango Transportation, Inc.*, the Court approved the Commission's reliance on evidence that the incumbent's rates were so high as to be "tantamount to a denial of service to the tourist population requiring transportation . . ."⁶⁷ This is consistent with the Commission's purpose in granting a transportation authority to "ensure that the public's transportation needs are met."⁶⁸

38. An applicant may demonstrate substantially inadequate service through evidence that the incumbent is not ready, willing, and able at all times to render service to anyone who might demand it.⁶⁹ But, the Commission is not required to find that the incumbent has failed or refused to provide service to a requesting customer.⁷⁰ An applicant must show that the incumbent has demonstrated a general pattern of inadequate service.⁷¹ Yet, "the test of inadequacy is not perfection."⁷² That is because any common carrier providing service to many clients will receive some legitimate complaints.⁷³

39. Although the applicant bears the burden of proving that the incumbent carrier's service is substantially inadequate, "where an applicant's evidence tend[s] to prove the existing carrier's substantial inadequacy, 'it [is] incumbent upon [the existing carrier] to rebut this evidence.'"⁷⁴

⁶⁵ *Id.*

⁶⁶ *Id.* at 251.

⁶⁷ *Id.* at 249.

⁶⁸ *Id.* at 250.

⁶⁹ *Id.* at 247, citing *Ephraim*, 380 P.2d at 232.

⁷⁰ *Id.* at 251.

⁷¹ *Id.* at 248.

⁷² *Ephraim Freightways Inc.*, 380 P.2d at 232.

⁷³ *RAM Broadcasting*, 702 P.2d at 750.

⁷⁴ *Id.* at 250 quoting *Ephraim Freightways Inc.*, 380 P.2d at 231-32.

40. Based on the foregoing, Applicant must show by a preponderance of the evidence that: (1) it is financially, operationally, and managerially fit to conduct the proposed service; (2) the public needs the proposed service; (3) the current service in the area is substantially inadequate; and (4) approving the Amended Application is in the public interest. If Applicant meets its burdens, Interveners must rebut evidence concerning substantial inadequacy by a preponderance of the evidence.

C. Discussion

1. Fitness

41. Applicant offered very little evidence relating to its fitness to conduct the proposed service.⁷⁵ Applicant has a business plan, but the evidentiary record lacks any information about that plan. Mr. Dokulevski has some experience in the transportation industry based on his work as an Uber driver and tangential experience with Limo to Vail, but the evidence does not establish how that experience makes Applicant managerially fit to conduct the proposed service. Applicant currently does not have any vehicles with which to render the proposed service. Applicant provided no information indicating it has a plan to obtain the necessary vehicles, or that it is financially able to do so. Nor did Applicant provide evidence that it has other equipment or facilities necessary to provide the proposed service, or the financial ability to obtain such equipment or facilities. Applicant provided no evidence as to the minimum efficiency scale necessary to operate under the proposed authority; its credit worthiness and access to capital; credit history and assessment of financial health in the near future; capital structure and current cash balances; fixed physical

⁷⁵ *Supra*, ¶ 12. Decision No. R25-0444-I advises Applicant that additional information on the legal requirements that it must meet to be granted the requested authority could be found in the Commission's Rules Regulating Transportation by Motor Vehicle, 4 CCR 723-6, and more specifically, Rule 6203 and § 40-10.1-201(1), C.R.S. Decision No. R25-0444-I at 14, fn. 48. The same Decision also advises the parties that filing an exhibit with the Commission, does not, by itself, admit an exhibit into the evidentiary record, and that exhibits must be admitted into evidence for the ALJ to consider them. *Id.* at 15.

facilities such as office space and maintenance garages; appropriate licenses and equipment necessary to operate a dispatch system; and personnel necessary to provide the proposed service. For the foregoing reasons and authorities, the ALJ finds that Applicant failed to establish by a preponderance of the evidence that it is managerially, financially or operationally fit to provide the proposed service.

2. Public Need and Substantial Inadequacy

42. The Amended Application may be denied solely based on Applicant's failure to establish its fitness to provide the proposed service. That said, the ALJ finds that it is in the public interest to evaluate the evidence on public need and substantial inadequacy.

43. Applicant conflates the possible need for public transportation from Denver to Red Rocks with a need for the proposed services. At issue here is whether there is an unmet need for the *private* transportation services that Applicant seeks to provide. Public transportation is not the same as private shuttle transportation. As a result, a need for one does not equal a need for the other. Indeed, whether a public transportation option is needed may be driven by factors unrelated to whether there is an unmet need for the service proposed here. For example, a public transportation option may be considered needed to decrease carbon emissions and traffic or to provide transportation at nominal or "cheap" rates.⁷⁶ Public transportation can be offered at nominal rates because taxpayers help fund the costs of the service, but a private provider must cover its costs through the rates that it charges. Thus, while a public transportation option may be considered needed *because* it can be offered at nominal rates, that does not mean that private

⁷⁶ See e.g., Hearing Exhibit 112 at 3 (noting surprise that the region's public transit system has no options to Red Rocks given that Denver spends more than \$40 million annually to cut carbon emissions) and 5 (public transit would be good for the climate and create equitable access for people who cannot afford car ownership but can pay for a bus ticket); Hearing Exhibit 113 at 6-7 (pricing for private transportation is not cheap and concertgoers are often forced to budget for this).

shuttle transportation is needed, particularly given that it cannot be offered at similar nominal rates. The evidentiary record here does not support a conclusion that the possible or actual need for public transportation translates into a need for the proposed services.⁷⁷

44. The Uber demand surge evidence supports a conclusion that there are periods when rideshare services like Uber and Lyft experience increased demand for transportation from Red Rocks at times when they do not have enough drivers available to meet that demand. That said, there is simply not enough evidence in the record to make use of this data. Most notably, there is no evidence indicating whether the increased demand was for transportation within the scope of the Amended Application (*i.e.*, for transportation between Red Rocks and Denver). Likewise, although a demand surge is caused by fewer drivers than riders, there is no evidence about the volume of drivers who worked in the area or the volume of rides requested during the demand surges. Based on the evidence, a demand surge may occur when two drivers worked in the area when three separate riders sought transportation. Such a demand surge is neither significant nor telling as to whether there is an unmet need for the services proposed here. For the reasons discussed, the ALJ concludes that the record lacks sufficient evidence to determine the meaning and import of the demand surge evidence.

45. In addition, the differences between rideshare services like Uber and Lyft and the services proposed here makes it difficult to rely on rideshare demand surge data. Specifically, while a rideshare provider can allow its vehicle to be exclusively used by an individual or group, Commission rules prohibit a CPCN shuttle provider from doing this.⁷⁸ As a result, rideshare

⁷⁷ The evidentiary record includes two articles discussing the need for public transportation to Red Rocks, and Jeffco Minutes indicating that the Jeffco Commissioners were involved in that push. Hearing Exhibits 102; 112; and 113. For the reasons discussed above, the ALJ concludes that evidence does little to advance the proposition that there is a need for additional private transportation options given their focus on the need for public transportation. See Hearing Exhibits 102; 112; and 113.

⁷⁸ See Rule 6001(nnn), 4 CCR 723-6.

exclusivity builds in flexibility that shuttle services may not be able to offer. For example, to ensure compliance with the Commission prohibition against using a vehicle to exclusively to transport an individual or group, a shuttle service provider cannot be as flexible as it could be if the provider only had to accommodate a single individual or group, which may impact departure times and frequency to and from a given location like Red Rocks. A rideshare service has flexibility to come and go as many times as its drivers and riders want, and can transport individuals and groups, to the exclusion of others. For the same reasons, a rideshare service allows riders to use the service with little or no notice, at whatever time they want, while a shuttle may not be able to offer that level of flexibility given the bar on exclusivity. Ultimately, rideshare and shuttle services are distinct from each other, and come with different benefits and drawbacks. As a result, without more evidence, the record does not reveal whether demand surges for rideshare services indicate an increase in demand for the shuttle service proposed here, or that the existing providers fail to meet such an increased demand.⁷⁹

46. The evidence indicates that anywhere from several hundred thousand to 1.6 million people visit Red Rocks annually. The fact that Red Rocks sees a significant volume of visitors annually does not automatically mean that the same or similar volume of visitors require shuttle transportation to Red Rocks or that the current providers fail to meet the public's need for that transportation. There needs to be an evidentiary connection between the volume of visitors and the need for the proposed services.⁸⁰ None was made. Notably, the record lacks evidence as to the annual volume of visitors that require shuttle transportation to Red Rocks (as opposed to other

⁷⁹ Also, given the different benefits and drawbacks of rideshare and shuttle service, it is unreasonable to assume that people seeking rideshare service would use a shuttle service.

⁸⁰ This is not to say that the volume of annual visitors to Red Rocks could not be relied upon as corroborating, supporting, or circumstantial evidence when there is other evidence showing that the public's need for transportation is not being met.

forms of transportation) and whether the existing CPCN holders meet the demand. Assuming *arguendo* that a significant number of annual visitors require shuttle transportation to Red Rocks, the evidence does not indicate whether such visitors require shuttle transportation within the scope of the Amended Application (*i.e.*, to and from Denver and Red Rocks). There is simply not enough evidence to determine whether the high volume of visitors to Red Rocks makes the existence of a material fact at issue here more or less likely.

47. Turning to evidence specific to the Interveners' service, Mr. Dokulevski explained that he was unable to book daytime transportation to Red Rocks with Mountain Star on its website. He argued that images from Mountain Star's website establish that Mountain Star does not offer daytime transportation because the website does not list daytime shuttle times.⁸¹ Because the website does not organize its transportation offerings based on time of day, the website cannot be relied upon for this conclusion.⁸² Assuming *arguendo* that Mountain Star does not offer daytime transportation to Red Rocks, the record lacks sufficient evidence to establish that there is an unmet need for such transportation.⁸³ What is more, Hearing Exhibit 100 reveals ample availability on and after the date the website pages were pulled (April 15, 2025).⁸⁴

48. Mr. Dokulevski also testified that he attempted to book a daytime shuttle to Red Rocks on Epic's website. While there was not an option to book transportation, he could request a quote for transportation. Mr. Dokulevski argued that Interveners must allow the public to book

⁸¹ He relied on Hearing Exhibit 100 for this assertion.

⁸² See Hearing Exhibit 100 at 1-2; *supra*, ¶ 14.

⁸³ The evidence was unclear as to whether Mountain Star offers daytime transportation. However, Mr. Lysenko testified that Mountain Star focuses on concert-related transportation to and from Red Rocks and that his other company, Epic, offers daytime transportation. If Mountain Star does not provide daytime transportation to Red Rocks despite the fact that its CPCN does not restrict it in this way, *and* there is an unmet need for daytime transportation between Denver and Red Rocks, this could indicate a pattern of inadequate service on Mountain Star's part (but not on Epic's part). See *Durango Transp. Inc.*, 122 P.3d at 253; Hearing Exhibit 200. As noted, the record lacks sufficient evidence to indicate there is an unmet need for such daytime transportation. Nor did the evidence establish that Epic's service, which includes daytime shuttle transportation, is substantially inadequate.

⁸⁴ Hearing Exhibit 100 at 3.

transportation through its website for its services to be accessible and available. While Mr. Dokulevski may have identified an inefficiency in how Epic books transportation, this does not make its booking process inaccessible or its transportation services unavailable. Nothing in Commission rules require a common carrier to have a website through which the public can make reservations, and Applicant offered no evidence indicating that Epic's failure to offer a booking option on its website has resulted in the public being unable to access Epic's service. Nor did Applicant offer any other evidence indicating that Epic's service is substantially inadequate to meet the public's needs.

49. The evidence establishes that Mountain Star's booking website showed Mountain Star as having no availability to transport passengers on June 23, 30, and July 7, 2025.⁸⁵ Assuming that the evidence relating to those days demonstrates that Mountain Star failed or refused to provide service on those dates, this does not establish that Mountain Star's service is substantially inadequate because the standard for adequacy is not perfection.⁸⁶ On the other dates where some of Mountain Star's pick-up locations were unavailable (June 20 and 21, 2025), the evidence established that Mountain Star redirected the public to its other pick-up locations and accepted reservations as late as approximately 45 minutes before departure.⁸⁷ As such, the ALJ finds that Mountain Star's service on June 20 and 21, 2025 was adequate.

⁸⁵ See Hearing Exhibits 104 to 111.

⁸⁶ See *Ephraim Freightways Inc.*, 380 P.2d at 232; *Durango Transp. Inc.*, 122 P.3d at 253. Mr. Lysenko testified that Mountain Star focuses on concert-related transportation to Red Rocks and because there were no concerts on those dates, the dates appeared unavailable on the booking website. If Mountain Star only provides concert-related transportation to Red Rocks despite the fact that its CPCN does not restrict it in this way, *and* there is an unmet need for transportation to Red Rocks outside of concerts, this could indicate a pattern of inadequate service on Mountain Star's part (but not on Epic's part). See *Durango Transp. Inc.*, 122 P.3d at 253; Hearing Exhibit 200. The evidence was unclear as to whether Mountain Star only provides concert-related transportation. Assuming *arguendo* that is the case, the evidence was insufficient to establish an unmet demand for transportation for events unrelated to concerts. Nor did it establish that Epic's service is substantially inadequate.

⁸⁷ See *supra*, ¶ 28; Hearing Exhibits 207-208.

50. To the extent that Applicant argues that Interveners' service is inadequate because their rates are too high for the traveling public, the evidence does not support this. For one, there is no evidence in the record about Epic's rates. Mountain Star charges \$65, roundtrip to and from Red Rocks, which is the equivalent of \$32.50 one-way.⁸⁸ Mountain Star correctly notes that the Commission approves its rates.⁸⁹ In doing so, the Commission guards the public against unjust and unreasonable rates.⁹⁰ As a result, when the Commission approves a fully regulated intrastate carrier's rates, such as Mountain Star, it determines that those rates are just and reasonable.⁹¹ That is not to say that a party could not rebut or counter such a determination through an evidentiary showing that Commission-approved rates are so high as to be tantamount to denying service.⁹² But Applicant failed to make such a showing. Indeed, the record lacks evidence that Mountain Star's rates are unreasonably high, unaffordable, unjust, or are so high as to be tantamount to rendering its service inaccessible.⁹³

51. Applicant presented evidence that, when viewed in a vacuum, may create a superficial impression that there is significant need for transportation to Red Rocks. As the above discussion illuminates, when that evidence is closely examined in context of the relevant legal authority and the specific services at issue (including Interveners'), the superficial nature of the evidence and its many gaps becomes apparent. For the reasons and authorities discussed, the ALJ concludes that Applicant failed to meet its burden to establish by a preponderance of the evidence

⁸⁸ Hearing Exhibit 100 at 1-2. The ALJ does not intend to imply that Mountain Star may charge for one-way trips to or from Red Rocks, as its authority requires transportation to originate and terminate at the same location. *See* Hearing Exhibit 200.

⁸⁹ *See* §§ 40-10.1-103(1) and (2), 40-3-101(1), C.R.S.; Rule 6208, 4 CCR 723-6.

⁹⁰ *See* §§ 40-10.1-103(1) and (2), 40-3-101(1), C.R.S.

⁹¹ *See* §§ 40-10.1-103(1) and (2), 40-3-101(1), C.R.S.

⁹² *See Durango Transp. Inc.*, 122 P.3d at 249.

⁹³ *See id.*

that there is a public need for the proposed service, that the existing service is substantially inadequate, and that granting the Amended Application is in the public interest.

IV. CONCLUSION

52. Consistent with the above discussion, the ALJ concludes that Applicant failed to meet its burdens and recommends that the Commission deny the Amended Application as set forth below. In accordance with § 40-6-109, C.R.S., the ALJ now transmits to the Commission the record in this proceeding and recommends that the Commission enter the following order.

V. ORDER

A. The Commission Orders That:

1. Consistent with the above discussion, the above-captioned Application filed by Shuttle Red Rocks LLC on April 3, 2025 and amended on April 9, 2025 is denied.

2. This Proceeding is closed.

3. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

4. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

5. If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

6. If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript

or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

7. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge

Rebecca E. White,
Director